

**TO PRESIDING JUDGE OF THE SUPERIOR COURT OF THE STATE OF
CALIFORNIA, COUNTY OF YOLO
APPELLATE DEPARTMENT:**

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CALIFORNIA, COUNTY OF YOLO, APPELLATE DEPARTMENT:**

Petitioner, James E. Horton, petitions this Court for a writ of mandate and stay of proceedings directed to respondent Court, and by this verified petition represents that:

1. Petitioner, James E. Horton, is Defendant in case number 13-0003628, wherein he was arraigned on 09122013 alleging a violation of PC § 148(A)(1) and which is now pending in respondent Court, The Superior Court of the State of California, Yolo County. The People of the State of California, the Plaintiff in that action, are named in this petition as Real Party in Interest.

2. Respondent, the Superior Court of Yolo County, is now and at all times mentioned in this petition has been exercising judicial functions in connection with the action described in Paragraph 1.

3. All the proceedings about which this petition is concerned have occurred within the territorial jurisdiction of respondent Court and of the Court of Appeal of the State of California, Third Appellate District.

4. No other petition for writ of mandate has been made by or on behalf of this petitioner relating to this matter.

5. Petitioner seeks extraordinary relief from this Court in the first instance because in addition to the Allegations set out above, the following circumstances make it proper and necessary that a writ issue from this Court: 1. the matters involved are of public and general interest to the People of the State of California having bearing upon very weighty issues with respect to fundamental Constitutional Rights and require speedy resolution; 2. they present questions of law not previously decided in the state; and, 3. there is an urgent need for uniformity of decision within the state.

[... compelling reasons in detail, e.g., that the matters involved are of public and general interest to the People of the State of California and that they require speedy resolution; they present questions of law not previously decided in the state; there is an urgent need for uniformity of decision within the state)–.

6. In Petitioner's Motion to Dismiss Because of Denial of Right to Speedy Trial, which he filed with the respondent Court on 10302013, Petitioner objected to respondent Court's jurisdiction to proceed with Prosecution on the grounds [following grounds: __[Specify Defendant's fundamental right to a Speedy Trial has clearly been prejudiced by procedural inefficiencies so cumulative, they betray extreme Vindictive, Discriminatory, Retaliatory and Malicious Prosecution – Prosecutorial Harassment while Defendant is in a conflict with Agents of the State. On 11042015, The Court __[ruled that [state ruling]prejudicially denied Petitioner's motion aforesaid in open Court.

7. Allegation When Petition Challenges Nonappealable Order

The order at issue in this proceeding is a nonappealable order, issued on 11042015. This Petition is filed within a reasonable time because the reporter's transcript of the hearing in which the challenged order was made was not available until 01152016 being 2 months and 11 days after the challenged order was issued and petitioner has referred extensively to the reporter's transcript in this petition while the legal issues are complex. Furthermore, the real party in interest has not been prejudiced by delay, because numerous abuses of legal process through incompetencies and inefficiencies itemized in Declaration attached as Exhibit C (see attached).

Also, Petitioner has filed a time extension attached as Exhibit D, and upon a Declaration matching as above (see attached). On 03232016, a clerk of court

communicated that hearing was arbitrarily set, and concurrent with Trial Readiness Conference in case set for 04064016, upon his Motion for Settled Record on Appeal thus causing more delays. Petitioner has opted to file at this time while decision on motion (attached as Exhibit C) is pending.

8. Petitioner has no right to appeal from respondent's decision of 11042015 and does not have a plain, speedy, or adequate remedy at law other than the extraordinary relief sought in this petition.

9. As supported in attached Memorandum, Petitioner will be irreparably injured in that he will be effectively denied fundamental VIth Amendment right to Fair Trial resulting from the prejudicial denial of his right to a Speedy Trial if respondent Court is not compelled to perform its legal duty and issue its order of mandate to dismiss charges because of denial of Petitioner's fundamental right to Speedy Trial thereby prohibiting it from taking any further action in the above-described matter.

This Court (Appellate Department) should consider this case because of the grave nature of the issues presented, because of its significant legal impact, and in order to review questions at law that are of weighty significance to the bench and bar so that general guidelines can be laid down for future cases involving similar issues -- such as self-representation, prosecutorial harassment and malicious, procedural inefficiency and misconduct.

WHEREFORE, Petitioner prays that: 1. This Court immediately stay all proceedings in the case at issue, case number 130003628, until further order of this Appellate Department of this Court; 2. This Court issue a peremptory writ of mandate in the first instance commanding respondent Court to issue its order of mandate to dismiss charges because of denial of Petitioner's fundamental right to Speedy Trial; and, 3. This Court grant Petitioner such other and further relief as may be appropriate and just.

Date: _____
submitted,

Propria

– Respectfully

James E. Horton, In Persona

VERIFICATION

State of California, County of Yolo:

I, the undersigned, do hereby attest:

I am the Petitioner self-representing in this action. All facts alleged in the above petition, not otherwise supported by citations to the record, exhibits or other documents, are true of my own personal knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____
submitted,

Propria

– Respectfully

James E. Horton, In Persona

MEMORANDUM PF POINTS AND AUTHORITIES

JUDGE PREJUDICIALLY ERRED BY MALICIOUS IGNORANCE OF PETITIONER'S MERITORIOUS ARGUMENT

On 11/04/2015, Judge Maguire based his denial of Petitioner's motion at issue upon the reasoning that: cause of delay was simply the "result of the time necessary for (numerous) motions to be heard," hence, Petitioner was faulted for only filing pretrial motions timely and with merit (*Transcript of Oral Aral Argument* at 34:line 1, *People v. James Horton*, (2013)(13-0003628)(November 04, 2015); *Augmented Transcript* at 19:line 10, *Supra*).

During same hearing, Petitioner orally supported, presenting facts, accounting for approximately over 10 months bad-faith delay accrued beyond statutory requirements defined pursuant to PC § 1382 prima facies, and over a period of two years (*Transcript of Oral Aral Argument* at 26:line 6-33:line 7, *People v. James Horton*, (2013)(13-0003628)(November 04, 2015); *Augmented Transcript* at 15:line 19 – 18:line 28, *Supra*). "Defendant's right to speedy trial cannot be stifled by procrastination or neglect by public officials" (*Jackson v Superior Court* (1991) 230 Cal. App.3d). Also, he orally supported that all his motions were timely and with merit addressing issues as rightful defense.

In lieu of aforesaid, the Judge grossly abused discretion dismissing with total ignorance Petitioner's oral argument – thusly, the court maliciously prejudiced Petitioner's fundamental right to Due Process respective to his pretrial motion practice.

JUDGE PREJUDICIALLY ERRED BY PRIMARILY BASING HIS DENIAL UPON FALSIFICATION OF THE FACTS

As verbalized during proceedings upon motion at issue on 11/04/2015, respondent judge based denial primarily upon alleged assertion that Petitioner previously signed a general waiver to his Rights to Speedy Trial pursuant to PC section 1382 during pendency in this case. (*Transcript of Oral Aral Argument* at 33:line 16 – 33:line 18, *People v. James Horton*, (2013)(13-0003628)(November 04, 2015); *Augmented Transcript* at 19:line 5, *Supra*).

This was blatant untruth falsifying the facts. In fact, Petitioner never did sign waiver as mentioned briefly in text of PC section 1382. Furthermore, he did immediately address said issue objecting thusly; evading the issue, the judge closed hearing without a response. (*Transcript of Oral Aral Argument* at 39:line 2, *People v. James Horton*, (2013)(13-0003628)(November 04, 2015); *Augmented Transcript* at 22:line 1, *Supra*).

Therefore, respondent court grossly abused discretion maliciously as prosecutorial and judicial misconduct.

DEFENDANT IS PREJUDICED BY PROLONGED RESTRAINT OF LIBERTY TO AN AREA

In conclusion, proceeding on this action would not serve justice, but only prejudice the Defendant in that the delays are causing undue disruption to his life without justifiable cause. At time of arrest, defendant did not have outstanding warrants, nor a criminal record. Charge is minor based on minimal evidence. As a matter of fact, the first charge – stemming from an anonymous, citizen informant's dispatch call – was dropped having no merit before arraignment. Defendant is not even resident of area but was traveling through at time of incident at question. He intends to move on while his liberty is restrained to the area, by inordinate delay, as an indigent without income. Furthermore, Defendant is forced by necessity to self-represent (as described in previous Faretta Motion) in such circumstances – his opportunities for employment are disrupted, his associations (such as Church affiliations) are

curtailed. The drawnout procedural harassments, as above, are prejudicing the defendant with excessive anxiety inducement. Also, it would belabor the Court with unnecessary expense of time and resources – and over minor charge with little merit. Therefore, zealous prosecution would serve to only confirm Defendant's assertions concerning a pretextual arrest with motives toward malicious, retaliatory, prosecutorial misconduct.

According to Serna, "Right to speedy trial protects criminal defendant against oppressive pretrial incarceration, anxiety, concern and disruption of his everyday life" (Serna v Superior Court (1985) 40 C3d 239). Therefore, it would be in the interest of justice for the Court to dismiss the charge.

Date: _____

– Respectfully submitted,

James E. Horton, In Persona

Propria
